

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

RENEE G. MOXON,

Plaintiff,

and

UNITEDHEALTHCARE OF WISCONSIN, INC.,
and STATE OF WISCONSIN DEPT. OF HEALTH
SERVICES

Case No.:

Involuntary Plaintiffs,

v.

WALMART, INC. and NATIONAL UNION FIRE
INSURANCE COMPANY OF PITTSBURGH, PA,

Defendants.

NOTICE OF REMOVAL

NOW COME Defendants Walmart, Inc. and National Union Fire Insurance Company of Pittsburgh, PA (“Defendants”), by and through their attorneys, MWH Law Group LLP, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and hereby remove the above-captioned cause of action from Winnebago County Circuit Court to the United States District Court for the Eastern District of Wisconsin – Green Bay Division.

In support thereof, Defendants state the following:

1. This action was originally filed by Plaintiff against Defendants on or about April 22, 2021, in Winnebago County Circuit Court, entitled *Renee G. Moxon, et al. v. Walmart, Inc.*,

et al. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint against Defendants is attached as **Exhibit No. 1.**

2. Personal service was made upon the Defendant Walmart, Inc.’s Registered Agent on or about May 5, 2021. A copy of the Service of Process Transmittal is attached as **Exhibit No. 2.**

3. Personal service was made upon the Defendant National Union Fire Insurance Company of Pittsburg, PA’s Registered agent on or about May 13, 2021. A copy of the Service of Process Transmittal is attached as **Exhibit No. 3.**

4. This case may be removed from Winnebago County Circuit Court to the United States District Court for the Eastern District of Wisconsin – Green Bay Division, pursuant to 28 U.S.C. § 1332. The United States District Court has original jurisdiction over the litigation filed in state court based on diversity of the parties.

5. This is a civil action in which Plaintiff Renee G. Moxon claims she is entitled to damages for personal injuries resulting from a slip and fall that occurred at the Walmart store located at 351 S. Washburn Street, City of Oshkosh, County of Winnebago, State of Wisconsin on or about April 26, 2018. Plaintiff alleges that she has “suffered personal injuries for which she required and received medical attention, and which caused pain and suffering” (**Exhibit 1, ¶ 12**). Plaintiff is seeking damages for “past, present and future pain and suffering, permanency, medical and other expenses, emotional distress, mileage and future earnings capacity loss” (**Exhibit 1, ¶ 13**). Based on the allegations contained in the Plaintiff’s Complaint, as well as the undersigned communication with Plaintiff, the amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs.

6. Defendant Walmart, Inc. has its principal place of business in Bentonville, Arkansas, and is deemed to be a citizen of both Delaware and Arkansas pursuant to 28 U.S.C. 1332(c)(1).

7. Defendant National Union Fire Insurance Company of Pittsburgh, PA has its principal place of business in New York, New York and is deemed to be a citizen of New York, New York.

8. Plaintiff is a citizen and resident of Wisconsin.

9. Involuntary Plaintiff UnitedHealthCare of Wisconsin, Inc. (the “UHC”) is incorporated in Wisconsin, has its principal place of business located at W1030-1000 10701 W. Research Drive, Wauwatosa, Wisconsin, and is deemed to be a citizen of Wisconsin. UHC is named as an Involuntary Plaintiff solely based upon its payments on behalf of Plaintiff Renee G. Moxon for medical and/or hospital expenses she incurred allegedly as a result of the accident which is the subject of Plaintiff’s Complaint. As such, UHC is a nominal party in this action as opposed to a real party in interest. A party is a nominal party if there is no reasonable basis for predicting that it will be held liable. *Vandervest v. Wisconsin Cent.*, 936 F. Supp. 601 (E.D. WI, 1996) (holding that State Farm and WEA, as insurers of the plaintiffs who were named as defendants solely to protect their respective subrogated interests do not fall within the purview of Wis. Stats. § 632.24 or § 803.04(2) and are not otherwise real parties in interest).

10. Involuntary Plaintiff State of Wisconsin, Dept. of Health Services (the “DHS”) is a subdivision of the State of Wisconsin, has its principal place of business located at 1 West Wilson Street, Madison, Wisconsin, and is deemed to be a citizen of Wisconsin. DHS is named as an Involuntary Plaintiff solely based upon its payments on behalf of Plaintiff Renee G. Moxon for medical and/or hospital expenses she incurred allegedly as a result of the accident which is

the subject of Plaintiff's Complaint. As such, UHC is a nominal party in this action as opposed to a real party in interest. A party is a nominal party if there is no reasonable basis for predicting that it will be held liable. *Vandervest v. Wisconsin Cent.*, 936 F. Supp. 601 (E.D. WI, 1996) (holding that State Farm and WEA, as insurers of the plaintiffs who were named as defendants solely to protect their respective subrogated interests do not fall within the purview of Wis. Stats. § 632.24 or § 803.04(2) and are not otherwise real parties in interest).

11. The time for filing this notice of removal has not run because thirty (30) days has not expired since May 5, 2021, the date on which Defendant Walmart, Inc. was personally served with the Original Summons and Complaint.

12. The time for filing this notice of removal has not run because thirty (30) days has not expired since May 13, 2021, the date on which Defendant National Union Fire Insurance Company of Pittsburgh, PA was personally served with the Original Summons and Complaint

13. Counsel identified below initially filed a limited appearance **attached as Exhibit No. 4** but has since filed a notice of withdrawal **attached as Exhibit 5**. No other counsel has entered an appearance on behalf of Plaintiff in the state court action. As such, Plaintiff is currently *Pro Se*.

Former Attorney for Plaintiff, Renee G. Moxon

Jenna N. Ashbeck, Esq.
Gregory R. Wright Law Offices, S.C.
50 W. Montello Street
P.O. Box 280
Montello, WI 53949-0280
jashbeck@gregwrightlaw.com

As of May 5, 2021, Plaintiff is *Pro Se*
Pro Se Plaintiff Renee G. Moxon
351 W. 6th Avenue
Oshkosh, Wisconsin 54902

14. This Notice of Removal is being served upon *Pro Se* Plaintiff Renee Moxon by U.S. Mail, since, to the undersigned's knowledge, she is not signed up for electronic filing in State Court and it is being filed with the Clerk of the Winnebago County Circuit Court.

WHEREFORE, Defendants Walmart, Inc. and National Union Fire Insurance Company of Pittsburgh, PA give notice that the above-captioned action now pending against them in Winnebago County Circuit Court is being removed therefrom to the United States District Court for the Eastern District of Wisconsin – Green Bay Division.

Dated this 1st day of June, 2021.

MWH LAW GROUP LLP

Attorneys for Defendants, Walmart, Inc. and National Union Fire Insurance Company of Pittsburgh, PA

By: /s/ Electronically signed by Eric L. Andrews

Eric L. Andrews SBN: 1068550

Vincent J. Vigil SBN: 1120981

735 North Water Street, Suite 610

Milwaukee, WI 53202

Telephone: (414) 436-0353

Facsimile: (414) 436-0354

eric.andrews@mwhlawgroup.com

vincent.vigil@mwhlawgroup.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 1, 2021, a copy of this document was served upon all parties in the above cause by **U.S. Mail** and the **electronic document management/electronic filing system (“ECF”)**, which will send notification of such filing to all attorneys of record.

***Pro Se* Plaintiff Renee G. Moxon**
351 W. 6th Avenue
Oshkosh, Wisconsin 54902

/s/Elsa Chavez